

**TOWN OF DAVIE**  
**TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Barbara McDaniel, MMC, Assistant Town Clerk/954-797-1023

**PREPARED BY:** Barbara McDaniel, MMC, Assistant Town Clerk

**SUBJECT:** August 15, 2007 minutes

**AFFECTED DISTRICT:** n/a

**ITEM REQUEST:** Schedule for Council Meeting

**TITLE OF AGENDA ITEM:** August 15, 2007 (Regular Meeting)

**REPORT IN BRIEF:** Council minutes from the August 15, 2007 Council meeting.

**PREVIOUS ACTIONS:** n/a

**CONCURRENCES:** n/a

**FISCAL IMPACT:** not applicable

Has request been budgeted? n/a

**RECOMMENDATION(S):** Motion to approve

**Attachment(s):** August 15, 2007 minutes

**TOWN OF DAVIE  
REGULAR MEETING  
AUGUST 15, 2007**

**1. PLEDGE OF ALLEGIANCE**

The meeting was called to order at 6:34 p.m. and was followed by the Pledge of Allegiance.

**2. ROLL CALL**

Present at the meeting were Mayor Truex, Vice-Mayor Caletka, and Councilmembers Crowley, Luis and Starkey. Also present were Town Administrator Shimun, Town Attorney Rayson and Town Clerk Muniz recording the meeting.

**3. PRESENTATIONS**

**3.1 Take A Kid Fishing Sponsors and Volunteers**

Special Projects Director Bonnie Stafiej announced the 26th Annual Take A Kid Fishing Rodeo had taken place at Wolf Lake. She thanked event volunteers and sponsors for their participation and donations and presented plaques of appreciation.

**3.2 South Florida Water Management District - Shannon Estenze,  
Governing Board Member**

Shannon Estenze advised that she was available to Council and staff for assistance with any water management issue, or if there were any questions. She stated that the emergency operations center had been operational since spring. Ms. Estenze indicated that the District anticipated that the drought would worsen next year and they would work with staff to inform residents of water restrictions and to enforce them.

Ms. Estenze distributed brochures regarding native plantings and water conservation.

**3.3 "Send Your Sales Tax to School" - Bob Legg**

No presentation was provided.

**3.4 Legislative Issues - David Sigerson and Vincent Grande**

Dave Ericks advised that they had some great results for the Town, the largest of which was the elimination of the concurrency for the downtown Community Redevelopment Agency (CRA) and the Regional Activity Center. They had also done well regarding FRDAP grants and the Florida Community Trust Grant.

Mr. Ericks felt there would be no additional budget cuts to cities and thought that any additional cuts would be to agencies. He also believed they would see annexation issues next year. Mr. Ericks warned that the bill to hold municipalities responsible for mobile home relocation would probably be re-presented.

Vice-Mayor Caletka asked about the mandated rollbacks. Mr. Ericks explained that these applied to municipalities and counties only. He believed in the next special session, the Legislature would address agency cutbacks only.

David Sigerson explained that his firm would be attending the League of Cities conference where three important policy discussions would occur: Hometown Democracy; property tax reform, and private property rights.

Councilmember Starkey remembered the firm had helped the Town to preserve their redevelopment efforts using CRA's. She thanked the firm for their efforts over the last 10 years.

Mayor Truex remarked that things happened very quickly in Tallahassee, and being represented was very important to the Town.

Councilmember Starkey made a motion, seconded by Mayor Truex, to table item 4.11 to September 19. In a voice vote, all voted in favor. (Motion carried 5-0)

#### **4. APPROVAL OF CONSENT AGENDA**

##### *Minutes*

- 4.1 June 20, 2007 (Regular Meeting)
- 4.2 July 18, 2007 (Special Executive Session)
- 4.3 July 19, 2007 (Workshop Meeting)

##### *Business Tax Receipt*

- 4.4 TK Laptops, 4450 SW 102 Avenue

##### *Resolutions*

- 4.5 **HOLIDAYS** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE HOLIDAY SCHEDULE AND OTHER OBSERVED DAYS FOR THE TOWN OF DAVIE NON-REPRESENTED EMPLOYEES DURING FISCAL YEAR 2007-2008; AND PROVIDING AN EFFECTIVE DATE.
- 4.6 **LIEN REQUESTS** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, REVISING THE SERVICE CHARGE FOR PROCESSING REQUESTS FOR LIEN INFORMATION.
- 4.7 **CHANGE ORDER** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE CHANGE ORDER #1 WITH CARTER & VERPLANCK, INC. TO CHANGE THE CONTRACTED SCOPE OF WORK AS DESCRIBED IN THE ATTACHED CHANGE ORDER #1. (increase of \$43,370)
- 4.8 **CHANGE ORDER** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE CHANGE ORDER #1 WITH WIDELL, INC./CARDINAL CONTRACTORS, INC. TO CHANGE THE CONTRACTED SCOPE OF WORK AS DESCRIBED IN THE ATTACHED CHANGE ORDER #1. (increase of \$43,921.95)
- 4.9 **SELECTION OF FIRM** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, SELECTING THE FIRM OF ADVANCED

PROCESSING & IMAGING, INC. TO PROVIDE DOCUMENT IMAGING SOFTWARE AND AUTHORIZING THE TOWN ADMINISTRATOR OR HIS DESIGNEE TO NEGOTIATE AN AGREEMENT FOR SUCH SOFTWARE.

- 4.10 **SELECTION OF FIRM** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, SELECTING THE FIRM OF KITTELSON & ASSOCIATES, INC. TO PROVIDE A LOCAL ROAD MASTER PLAN AND AUTHORIZING THE TOWN ADMINISTRATOR OR HIS DESIGNEE TO NEGOTIATE AN AGREEMENT FOR SUCH SERVICES.
- 4.11 **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE BID AWARDED BY THE CITY OF JACKSONVILLE, FLORIDA, BID NO. SC-0511-06 FOR SUPPLYING PLAYGROUND EQUIPMENT FOR "MATH IGLER PARK" TO CONTRACT CONNECTION, INC. (\$60,918.40)
- 4.12 **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AWARDED THE BID FOR LABORATORY TESTING TO K.S.A. ENVIRONMENTAL LABORATORY, INC. (\$45,862)
- 4.13 **BID** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE BIDS FOR FERTILIZER. (lowest responsive and responsible bidder)
- 4.14 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXTEND THE SERVICE AGREEMENT FOR MEDICAL DIRECTOR SERVICES BETWEEN THE TOWN OF DAVIE AND WAYNE LEE M.D. F.A.C.E.P. d/b/a PHYSICIAN ASSOCIATES, INC. (\$20,000/year)
- 4.15 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT BETWEEN FPL AND THE TOWN OF DAVIE FOR AN ENERGY AND MAINTENANCE AGREEMENT FOR ONE HUNDRED FIFTY ONE (151) STREETLIGHTS IN REXMERE VILLAGE. (not budgeted - \$27,431.52/year)
- 4.16 **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE TOWN OF DAVIE TO ENTER INTO AN AGREEMENT BETWEEN ISLAND MUSIC AWARDS, INC. AND THE TOWN OF DAVIE TO RENT THE BERGERON RODEO GROUNDS FOR A CARIBBEAN MUSIC FESTIVAL. (arena rental fee - \$1,000)

- 4.17      **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE TOWN OF DAVIE TO ENTER INTO AN AGREEMENT BETWEEN THE FORT LAUDERDALE INTERNATIONAL FILM FESTIVAL AND THE TOWN OF DAVIE, FOR THE USE OF THE BERGERON RODEO GROUNDS, OF DAVIE FLORIDA FOR A CLOSING NIGHT INTERNATIONAL FILM FESTIVAL WRAP PARTY AND WAIVING RENTAL FEES
- 4.18      **CONTRACT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH PROFESSIONAL CONCESSIONS, INC. TO PROVIDE CONCESSIONAIRE SERVICES AT THE BERGERON RODEO GROUNDS
- 4.19      **PERSONNEL RULES AND REGULATIONS** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AMENDING RULE XII, SECTION 3 OF THE PERSONNEL RULES AND REGULATION OF THE TOWN OF DAVIE, FLORIDA, ENTITLED "PAYMENT OF TUITION COSTS IN SELF-DEVELOPMENT COURSES"; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.
- 4.20      **DELEGATION REQUEST** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING A DELEGATION REQUEST TO CHANGE THE RESTRICTIVE NOTE ON THE PLAT KNOWN AS "GRIFFIN 78", AND PROVIDING AN EFFECTIVE DATE. (DG 6-4-07, Griffin 78, 7780 Griffin Road)
- 4.21      **REGIONAL ACTIVITY CENTER** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, APPROVING THE TOWN OF DAVIE REGIONAL ACTIVITY CENTER ERA MARKET ANALYSIS AND AUTHORIZING PAYMENT FOR SUCH ANALYSIS TO EDSA; AND TO ACKNOWLEDGE SUCH APPROVAL BY AFFIXING THEIR SIGNATURES TO SAID RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.
- 4.22      **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT FOR LEGAL SERVICES BETWEEN THE TOWN OF DAVIE AND JOHN C. RAYSON. TO PERFORM THE DUTIES OF THE TOWN ATTORNEY AND PROVIDING FOR AN EFFECTIVE DATE. (\$225/hour)
- 4.23      **AGREEMENT** - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, ACCEPTING THE AGREEMENT BETWEEN THE TOWN OF DAVIE AND DAVIE TRAVEL CENTER, INC. AND

**AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT;  
AND PROVIDING FOR AN EFFECTIVE DATE.**

Councilmember Luis pulled item 4.19 from the Consent Agenda. Councilmember Starkey pulled item 4.22. Vice-Mayor Caletka pulled items 4.7, 4.8 and 4.17. Councilmember Crowley pulled item 4.23.

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve the Consent Agenda less items: 4.7, 4.8, 4.17, 4.19, 4.22 and 4.23. In a voice vote, all voted in favor. (Motion carried 5-0)

**5. DISCUSSION OF CONSENT AGENDA ITEMS**

4.22 Mayor Truex said he would allow residents to speak on this item. Councilmember Starkey said she would like to allow public input. Vice-Mayor Caletka objected because this was a Consent Agenda item.

Mitchell Chester expressed concern that changing the Town Attorney at this time would jeopardize the mobile home moratorium.

Karen Stenzel-Nowicki presented property records and a variance request for property within the Town. She pointed out that there was confusion regarding who actually owned the property, a corporation or the Central Broward Water Control District, whom Mr. Rayson represented in a variance request. Ms. Stenzel-Nowicki wondered how Mr. Rayson had applied for the variance for Central Broward Water Control District when Broward County records showed the property was owned by someone else. She felt this was evidence of negligence and incompetence, and Mr. Rayson should not be considered for the Town Attorney. Ms. Stenzel-Nowicki requested Council rescind their offer of employment and commence an investigation into this matter. Failing that, she would provide her research to the Florida Ethics Commission, the Florida State Attorney, the Florida Department of Law Enforcement, the Florida Bar Association and the governor for their review and action.

Linda Greck felt that Mr. Cherof should complete all of the work he had begun. She also believed that since all the canals in Davie were owned by Central Broward Water Control District, a conflict of interest would surely arise for Mr. Rayson if he represented the Town as well.

Sylvia Clements said she had researched both law firms, and noted that members of Mr. Cherof's firm were attorneys and accountants. She felt that political contributions Mr. Rayson had received over the years would present conflicts. Ms. Clements noted that Mr. Rayson had accepted a political contribution from one applicant who had an item on the agenda this evening, and wondered if Mr. Rayson would recuse himself. She indicated that Mr. Rayson had an "unqualified employment record in governmental law" and implored Council to deny Mr. Rayson's contract.

Barbara Tilley said she was disappointed and could not believe Council would select a two-person law firm over a ten-person law firm. She was especially concerned over all the work Mr. Cherof had done regarding the 18th Street median, and worried that they would be forced to start this project all over again.

Mayor Truex closed the public comment and offered Mr. Rayson the opportunity to respond.

Councilmember Starkey reminded everyone that Mr. Rayson's firm had been included on the list of firms for Council to consider. She had concerns about the

selection process, and declarations made in the presentations that were made to Council. Councilmember Starkey said that Mr. Rayson did not meet the minimum requirements set forth in the RFP, since he had not performed any municipal attorney work and the Central Broward Water Control District was not a municipal government as defined by the Florida Attorney General. No references of municipal, county or state government work in the State of Florida were provided. She stated that staff had not performed due diligence per the RFP qualifications, and expressed concern that staff would continue this practice in the future. Councilmember Starkey added that the RFP asked that the firm disclose any conflicts of interests and Mr. Rayson had represented the Davie Travel Center on August 9, 2006, which was not disclosed as a conflict in his proposal. She shared the concerns expressed by Ms. Clements of political contributions Mr. Rayson had received from owners of the Davie Travel Center in his recent contest for judge could lead to a conflict of interest. Councilmember Starkey found it strange that item 4.23 regarding the Davie Travel Center was being heard tonight. She questioned if Mr. Rayson would recuse himself or did he still represent the Davie Travel Center. Councilmember Starkey also questioned Mr. Rayson's representing the Central Broward Water Control District before Council and what would occur if Council had an issue that would involve canal or drainage matters.

Councilmember Starkey spoke of Mr. Rayson's associate who had nine years of legal experience, with the majority being in criminal law and as an assistant public defender in Broward County. She added that Mr. Rayson's experience was mostly divorce or civil litigation. Neither had municipal government experience "shown there." Councilmember Starkey reiterated that Mr. Rayson and his firm did not meet the minimum qualifications and due diligence with municipal law experience.

Councilmember Starkey stated that the Town's had received request for an opinion from the Attorney General's Office regarding a possible conflict of interest because of Mr. Rayson's representation of the Central Broward Water Control District had been returned. The response indicated that based upon Councilmember Crowley's analysis, there was no conflict but that this was not a formal opinion and not a formal opinion by the Ethics Commission. The Florida Attorney General had indicated that the majority of Council should make the request, not the person in question. Considering the new information that was provided, she believed the opinion did not address the concerns of conflicts or undue influence, Councilmember Starkey requested that an additional opinion be requested but that a formal opinion of the Ethics Commission should be sought, which Councilmember Starkey recommended.

Councilmember Starkey also wondered questioned why Mr. Rayson had represented the Town at the Charter Review Committee prior to his contract's approval. She also questioned who provided the authority for Mr. Rayson's representation.

Councilmember Starkey indicated that Vice-Mayor Caletka previously campaigned on getting rid of the previous Town Attorney because of the cost and lack of experience with municipal law. He wanted to seek either an in-house or outside counsel to do so. Based on the proposed contract, Councilmember Starkey questioned why Council would pay more for less. She requested that Council seek additional information to address the concerns brought forward, that an official decision be made by the Ethics Commission, and that true due diligence was proceeded with.

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve the only qualified bidder as a municipal law attorney: Goren, Cherof, Doody & Ezrol. In a voice vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Caletka - no; Councilmember Crowley - no; Councilmember Luis - no; Councilmember Starkey - yes. (Motion failed 2-3)

Councilmember Starkey made a motion to either postpone temporarily in light of the information that they had been provided, to be reviewed, appropriate diligence and to the concerns that had been addressed and presented to this Council by official decisions by the Ethics Commission. Motion died for lack of a second.

Vice-Mayor Caletka advised that he had donated to Mr. Rayson's campaign for Judge. He said he was offended at the suggestion that acceptance of campaign contributions would affect a decision on something presented to Council. Vice-Mayor Caletka said he was comfortable with Mr. Rayson and felt he was qualified.

Councilmember Crowley wanted to know whether Mr. Rayson still represented Davie Travel Center. Mr. Rayson said he no longer did and indicated that his campaign contributions had not been made by the owners of Davie Travel Center.

Councilmember Luis confirmed with Mr. Shimun that there was no difference between the contract offered Mr. Rayson and the contract with the previous firm.

Mayor Truex asked how much the Central Broward Water Control District paid Mr. Rayson. Mr. Rayson confirmed it was \$275 per hour.

Councilmember Starkey asked Mr. Rayson to address some of the issues that had been brought to Council's attention. Mr. Rayson explained that he had served as Assistant City Attorney, and his duties were to be City Prosecutor. He said he did have municipal law experience.

Councilmember Starkey remembered a conversation with Mr. Rayson where he indicated that if he was contracted as Davie's Town Attorney, he would step down as attorney for Central Broward Water Control District. Mr. Rayson did not believe he ever said this. He could not remember a conflict between the Water Control District and Davie ever arising, but said he would not allow himself to be in a conflict situation.

Councilmember Starkey asked Mr. Rayson if he would object to waiting until any potential issues were resolved. Mr. Rayson felt it was a disservice to the residents to spread innuendo and to suggest that campaign contributions would be a source of conflict. He said that he had come here only to provide honorable, effective and correct legal services to Council. Mr. Rayson informed Councilmember Starkey that Mr. Shimun had authorized him to attend the Charter Review Committee meeting after being informed by Mr. Cherof that he would not attend.

Mayor Truex remembered that Mr. Goren's firm had done some work prior to having a contract as well, so he found no fault with this.

Councilmember Luis made a motion, seconded by Vice-Mayor Caletka, to ratify this contract and move forward.

Mayor Truex said he found no fault with Mr. Rayson based on any potential conflicts, but said he would vote against his contract because Mr. Goren's firm had more municipal experience.

Vice-Mayor Caletka reminded everyone that Council had been the Selection Committee, and he found it "unacceptable for one Council member to have not done her



homework until the very last minute and when it comes time to ratify the contract, to throw out serious, unfounded objections.”

In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Caletka - yes; Councilmember Crowley - yes; Councilmember Luis – yes; Councilmember Starkey - no. (Motion carried 3-2)

4.7 Vice-Mayor Caletka asked staff to justify the change order. Assistant Town Administrator Ken Cohen explained that staff had originally wanted to go to chlorine generation to avoid tanks on site. The Broward County Health Department had determined that additional chlorine was needed, the size of the equipment had to be increased.

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve 4.7, noting that this was in District 2, not District 3. In a voice vote, with Vice-Mayor Caletka dissenting, all voted in favor. (Motion carried 4-1)

4.8 Councilmember Starkey made a motion, seconded by Mayor Truex, to approve because of the new technologies that the Health Department required, and to include it to have District 2 instead of District 3. In a voice vote, with Vice-Mayor Caletka dissenting, all voted in favor. (Motion carried 4-1)

4.17 Vice-Mayor Caletka said a resident would make a presentation. Hal Axler explained that the 22nd Annual Fort Lauderdale International Film Festival would be held at Nova University’s Miniaci Theatre in Davie.

Councilmember Starkey made a motion, seconded by Councilmember Luis, to approve. In a voice vote, all voted in favor. (Motion carried 5-0)

4.19 Councilmember Luis indicated that he wanted the Town’s employees to be educated, but he did not want this to be a launching pad to their next career.

Mayor Truex felt there should be a maximum tuition reimbursement of \$3,500 and there should be a two-course limit. Mr. Cohen said they had decided to increase the reimbursement in the event someone wanted to take classes year-round.

Councilmember Starkey wanted to make sure the policy indicated that employees should not be utilizing Town equipment for schoolwork or completing schoolwork during work time. Mr. Cohen said the policy did address this, as well as her suggestion for the Fire Department exemption.

Council agreed to set the maximum reimbursement at \$3,500 annually.

Councilmember Starkey made a motion, seconded by Mayor Truex, to approve subject to the \$3,500 annually, and to the amendment that they had received from Mark Alan subject to the highlighted areas and recommendations of the budget workshop to include a policy amendments of C. and D. In a voice vote, all voted in favor. (Motion carried 5-0)

4.23 Councilmember Crowley made a motion, seconded by Vice-Mayor Caletka, to approve.

Neil Kalis, representing Davie Travel Center, advised that there may be a glitch in what the applicant had requested. He reported that there had been a transfer of title for a portion of the property to Security 1031 Services LLC. Mr. Kalis explained that he had contacted the owner and discovered that this had been done for tax reasons. He did not believe this had been done to subvert the provision that rights could not be transferred to any entity other than the Davie Travel Center.

Mr. Rayson said he felt comfortable representing the Town in this matter as he no longer represented the Davie Travel Center or Mr. Brauser. Mr. Rayson explained the IRS requirement for a third-party representative in order to exchange property, which he believed this LLC represented and he did not believe this was intended to subvert any previous dictate of the Council. Mr. Rayson said this item could be tabled until the issue was resolved or a provision could be made for the third party representative.

Mayor Truex recommended the agreement be renewed for 30 days instead of a year in order to avoid a lawsuit.

Councilmember Crowley amended his motion and Vice-Mayor Caletka agreed.

Mr. Kalis said this was satisfactory, as long as the extension did not include the prohibition of assignment for the next 30 days, so during that time he would not run into a problem. Councilmember Crowley and Vice-Mayor Caletka agreed.

Mr. Cohen recommended that Council table the item to the first meeting in October.

In a voice vote, with Councilmember Starkey dissenting, all voted in favor. (Motion carried 4-1)

## **6. PUBLIC HEARING**

### *Resolution*

- 6.1 **PURCHASE - A RESOLUTION OF THE TOWN OF DAVIE, FLORIDA, AUTHORIZING THE MAYOR AND APPROPRIATE TOWN OFFICIALS TO EXECUTE THE PURCHASE AND SALE AGREEMENT WITH MICHAEL DEVINE FOR THE PROPERTY KNOWN AS THE DEVINE PARCELS; AND PROVIDING FOR AN EFFECTIVE DATE.**

Mr. Rayson read the resolution by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing.

Mayor Truex said in the past, the Town had gone with the average appraised value. In this case, that was \$2,722,500.00, and he felt they should offer this as the purchase price.

Councilmember Starkey asked how this had been negotiated. Programs Manager Phil Holste described other land purchases the Town had made and remarked that this was the second-highest ranked site because there was native vegetation, there was a pond on site and it was located along the Flamingo Road Greenway. Councilmember Starkey thought the value of the trees on the property had not been factored into the lower estimate.

Councilmember Starkey asked Mr. Holste the Open Space Advisory Committee's considerations for use of the park. Mr. Holste responded that there were no specific

conceptual plans for this property. Mr. Cohen confirmed that any improvements would be a separate issue.

Vice-Mayor Caletka noted that in District 3, there were more pieces of land available than the Town could purchase, and asked why this property had become a priority. Councilmember Starkey explained that she had discussed this issue with several people and their reactions had been mixed.

Councilmember Starkey favored going forward with this purchase, and perhaps staff should investigate getting it for less. Mr. Cohen said in considering this property, they had discussed the loss of tree canopy, and they felt that the trees on this property would be a great benefit.

Councilmember Starkey made a motion, seconded by Vice-Mayor Caletka, to approve. In a voice vote, with Mayor Truex and Councilmember Crowley dissenting, all voted in favor. (Motion carried 3-2)

Later in the meeting, Mr. Rayson announced that item 6.1 had been defeated, because when property values were over \$500,000, a supermajority was required if the property exceeded the average appraisal price. He advised that this requirement stemmed from a 2006 resolution.

Councilmember Crowley made a motion, seconded by Mayor Truex, to approve with the amount of \$2,722,000. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Caletka - yes; Councilmember Crowley - yes; Councilmember Luis - yes; Councilmember Starkey - yes. (Motion carried 5-0)

*Ordinances - Second and Final Reading*

6.2 **TEXT AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING FOR ADOPTION TO THE DEPARTMENT OF COMMUNITY AFFAIRS, APPLICATION LA(TXT) 4-3-07, AMENDING THE TOWN OF DAVIE COMPREHENSIVE PLAN BY UPDATING THE CAPITAL IMPROVEMENTS ELEMENT WITH THE ADOPTED 5-YEAR CAPITAL PROJECTS PROGRAM PURSUANT TO CHAPTER 163, FLORIDA STATUTES; PROVIDING FOR FILING WITH THE DEPARTMENT OF COMMUNITY AFFAIRS; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. {Approved on First Reading July 18, 2007. All voted in favor.}**

Mr. Rayson read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing.

Councilmember Luis asked what Councilmember Paul's amendments had been. Acting Planning and Zoning Manager Marcie Nolan clarified that this was actually last year's capital improvement budget.

Councilmember Starkey made a motion, seconded by Councilmember Luis, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Caletka - no; Councilmember Crowley - yes; Councilmember Luis - yes; Councilmember Starkey - yes. (Motion carried 4-1)

- 6.3      **CODE AMENDMENT - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE, CHAPTER 12, SPECIAL PLANNING AREAS AND DISTRICTS, ARTICLE XIII, WESTERN THEME DISTRICT, DIVISION 1, SETBACK, USES AND HEIGHTS IN COMMERCIAL ZONES, SECTION 388, TO ALLOW TOWN COUNCIL TO WAIVE THE PROVISION OF THE FRONT SETBACK AND THE COVERED BOARDWALK ALONG THE FRONTAGE OF A STRUCTURE ALONG THE MAJOR STREET SIDE EXTENDING FROM THE FRONT BUILDING WALL TO THE PROPERTY LINE; PROVIDING FOR INCLUSION IN THE TOWN CODE; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. {Approved on First Reading July 26, 2007. All voted in favor.}**

Mr. Rayson read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing.

Councilmember Starkey made a motion, seconded by Councilmember Luis, to approve. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Caletka - yes; Councilmember Crowley - yes; Councilmember Luis - yes; Councilmember Starkey - yes. (Motion carried 5-0)

- 6.4      **REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 2-1-07, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM CF, COMMUNITY FACILITY DISTRICT TO M-2, MEDIUM INDUSTRIAL DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 2-1-07, DS Realty, 4802 SW 51 Street) *Planning and Zoning Board recommended approval* {Approved on First Reading July 26, 2007. All voted in favor.}**

Mr. Rayson read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting. As no one spoke, Mayor Truex closed the public hearing.

Councilmember Luis made a motion, seconded by Councilmember Crowley, to accept. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Caletka - yes; Councilmember Crowley - yes; Councilmember Luis - yes; Councilmember Starkey - yes. (Motion carried 5-0)

- 6.5      **REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 5-1-07, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE FROM PRD 6.3, PLANNED**

RESIDENTIAL DEVELOPMENT DISTRICT TO CF, COMMUNITY FACILITIES DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 5-1-07, Nova Southeastern University, Inc./Rolling Hills Hotel, Ltd., 3501 West Rolling Hills Circle) [see related item 6.6] *Planning and Zoning Board recommended approval {Approved on First Reading August 1, 2007 subject to a restrictive covenant for no undergraduate housing; and for the petitioner to return with revenue information by the second reading. All voted in favor.}*

Mr. Rayson read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting.

Ms. Nolan announced that the applicant had submitted a voluntary deed restriction limiting the facility to graduate housing, and this had been referred to the Town Attorney's Office.

An unidentified man, a property owner and employee of NSU, remarked on improvements Nova had made. He said that a union from Dade County had "put the fear of God" into members of his condominium association and everyone in his association had voted for the rezoning. The man presented a copy of the letter sent to his condominium residents by the union to the Town Clerk.

Jamie Cooper, a Rolling Hills condominium resident, said over the past few years, residents of her condominium had changed from predominantly older people to approximately 30% college students. She remarked on the increase in property damage, crime, noise, and violation of condominium rules. Ms. Cooper said if this hotel were turned into student housing, she would be the first to sell her property and move. She could not think of a single resident, aside from Mr. Sherman, who would approve of having college students as neighbors.

Douglas Bell, an adjacent neighbor and vice president of Lake Estates of Rolling Hills Homeowners Association, stated that their association had unanimously endorsed this project.

Steve McGonigle, union member, said they had done mass mailing and telephoning regarding this and he did not feel these had been threatening. He indicated that they were concerned about an increase in noise and a decrease in property values, and the loss of the tax income.

Gregg Sanders, Lake Estates of Rolling Hills resident, said their residents supported this. He noted the good work that Nova had done in the community.

Jeff Hargrave, Lake Estates of Rolling Hills resident, was hoping there would be some sensitivity to the proper use of the tennis court property.

Noel Santiago advised that he lived across the street from Lake Estates, and he was worried about an increase in traffic. He asked what impact the ordinance would have on the golf course.

George Hanbury, representing Nova Southeastern University, explained that the University wanted to rehabilitate the dilapidated structure without expanding it. He said they had requested the rezoning to establish a social membership golf club.

Dr. Hanbury advised that the University had held the required community meetings and had appeared before the Planning and Zoning Board and gained unanimous

approval. He said they did not anticipate any extension farther south past the existing tennis court, and they would not demolish any trees on the property.

Dr. Hanbury said the facility must be ready for occupancy by August 2008 in order to accommodate graduate students. He noted that the average age of their graduate students was 37 years old, and they had agreed to a deed restriction that no undergraduates would occupy the premises. Dr. Hanbury had also promised to make a contribution to the Town in an amount equal to the Town's tax income from the property, which would increase each year with the consumer price index.

Dr. Hanbury stated that the University intended to maintain the golf course as a private membership, for-profit operation and would continue to pay taxes as the previous owners had. He confirmed for Councilmember Starkey that they would provide a shuttle service from this facility to the campus.

Vice-Mayor Caletka wanted the annual contributions to continue in perpetuity instead of ceasing after five years. Dr. Hanbury said the president and trustees felt that five years was a good gesture on their part and asked the other Councilmembers for their input. Councilmember Crowley wanted to revisit this after five years, when they could judge the impact of the academical village. Mr. Shimun indicated that the Town could extend it for 10 or 15 years and then review it after five years, depending on what happened with the academical village.

Councilmember Luis wanted to know what sort of funds the Town would realize from building permits and other fees related to this project. Staff could not provide an accurate figure, but Mayor Truex agreed it would be "lots and lots of money."

Dr. Hanbury suggested the yearly contribution be extended for 10 years and then revisited in five years. Mayor Truex remembered that the university had an opportunity to try to gain tax-exempt status for additional property, but had promised not to, and had held to this promise; therefore felt the University representatives had shown they would be good to their word.

Councilmember Luis made a motion, seconded by Mayor Truex, to approve with the amendment for ten years, that it would be revisited in five years, and with the escalators Dr. Hanbury had mentioned.

Councilmember Starkey noted that the declaration of restricted covenants must be included in the motion. In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Caletka - yes; Councilmember Crowley - yes; Councilmember Luis - yes; Councilmember Starkey - yes. (Motion carried 5-0)

- 6.6      **REZONING - AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING REZONING PETITION ZB 5-2-07, CHANGING THE CLASSIFICATION OF CERTAIN LANDS WITHIN THE TOWN OF DAVIE TO INCLUDE THE APPROXIMATE 2.10 ACRE "TENNIS PARCEL," FROM: PRD 6.3, PLANNED RESIDENTIAL DEVELOPMENT DISTRICT TO: CR, COMMERCIAL RECREATION DISTRICT; THE APPROXIMATE 1.09 ACRE "LAKE PARCEL," FROM: PRD 6.3, PLANNED RESIDENTIAL DEVELOPMENT DISTRICT, TO: CR, COMMERCIAL RECREATION DISTRICT; THE APPROXIMATE 1.20 ACRE "PARKING PARCEL," FROM: PRD 6.3, PLANNED**

RESIDENTIAL DEVELOPMENT DISTRICT, TO: CR, COMMERCIAL RECREATION DISTRICT; THE APPROXIMATE .85 ACRE "ISLAND PARCEL," FROM: PRD 6.3, PLANNED RESIDENTIAL DEVELOPMENT DISTRICT, TO: CR, COMMERCIAL RECREATION DISTRICT; AND A PORTION OF THE "HOTEL PARCEL," FROM: PRD 6.3, PLANNED RESIDENTIAL DEVELOPMENT DISTRICT, TO: CR, COMMERCIAL RECREATION DISTRICT; AMENDING THE TOWN ZONING MAP TO COMPLY THEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (ZB 5-2-07, Nova Southeastern University, Inc./Broward Anchor International, Ltd., 3501 West Rolling Hills Circle) [**see related item 6.5**] *Planning and Zoning Board recommended approval {Approved on First Reading August 1, 2007 subject to meeting with staff relating to the revenues. All voted in favor.}*

Mr. Rayson read the ordinance by title.

Mayor Truex opened the public hearing portion of the meeting.

Jeff Hargrave asked if any buildings would be put on this property. Dr. Hanbury said they would add a pro shop near the tennis courts.

Mayor Truex closed the public hearing.

Councilmember Luis made a motion, seconded by Councilmember Crowley, to approve with the contribution to continue for 10 years, to come back before Council in five years.

Councilmember Starkey wanted Nova to agree to participate in the traffic calming devices that may be necessary through the Town as well. Dr. Hanbury said they had agreed to do this, but it would take time.

Council disclosed communications they had regarding this item.

In a roll call vote, the vote was as follows: Mayor Truex - yes; Vice-Mayor Caletka - yes; Councilmember Crowley - yes; Councilmember Luis - yes; Councilmember Starkey - yes. (Motion carried 5-0)

#### *Quasi-Judicial Item*

6.7 **SPECIAL PERMIT** - SE 7-1-07, Davie Travel Center, 4751 SW 30 Street (TS) (outside storage of trucks and cars and temporary modular units to be used as office space) *Planning and Zoning Board recommended approval subject to the ficus hedge being approximately a minimum of five-feet tall with no gaps along the northern borderline and being properly maintained; that the special permit be for 18 months with an automatic extension of another 18 months upon staff's approval; that all exotic species be removed; and that the supporting poles for the signage be fully concealed*

Mr. Rayson swore in the witnesses.

Mr. Rayson invited staff comments. Ms. Nolan summarized the planning report.

Councilmember Crowley asked at what height the hedge would be maintained. Jill Cohen, the applicant's landscape architect, agreed they would maintain this as a hedge and not allow it to develop into a tree. She felt it could reach a height of 20 feet.

Councilmember Starkey wanted this to return to Council after 18 months instead of being granted automatic extensions.

Neil Kalis, representing the applicant, presented photos depicting the hedge already planted at the property and remarked that there were approximately 850 individual plants that were now about five feet tall. He was certain that if staff did not feel they were complying with what had been promised, they would not automatically renew this in 18 months and would refer it back to Council.

Mr. Kalis requested amendment of the application to change the name to Security 1031 Services LLC. He added Davie Travel Center would continue to operate the property.

Douglas Bell, attorney for Tindall Hammock Irrigation and Soil Conservation District, reported that the District would accept no drainage from this property, but had no opinion regarding whether the project should go forward. He explained that currently, the drainage went into a lake on the north side of the project and then into the canal.

Mr. Rayson opened the public hearing portion of the meeting.

Sylvia Clements announced that there was a perpetual Department of Transportation drainage, maintenance, and access easement on the property that would prevent planting. The Town had also been given an easement for the lift station, and she remarked that a trailer was currently parked on top of this easement. Ms. Clements added that Security 1031 Services LLC was in Chapter 11 in New York.

Mr. Rayson closed the public hearing.

Council disclosed communication they had regarding this item.

Councilmember Starkey asked Ms. Cohen if the landscaping had been planted in the easement. Ms. Cohen said the easement was shown on the landscape plan, and the landscaping would not interfere. Ms. Nolan agreed.

Vice-Mayor Caletka made a motion, seconded by Councilmember Luis, to approve, with staff's approval after 18 months.

Councilmember Crowley recommended amending the motion to accept the ficus hedge as planted and Vice-Mayor Caletka agreed. Vice-Mayor Caletka refused to add the amendment that this issue should return to Council in 18 months.

Mr. Kalis asked if this included his earlier request to amend to include Security 1031 Services LLC in ownership for public records, and Vice-Mayor Caletka agreed.

Councilmember Crowley confirmed that the height of the hedge would be determined by staff.

Mr. Rayson confirmed that the staff conditions were part of the motion. Mr. Kalis confirmed that they were excepting the hedge as planted and that the applicant would work with staff to determine the height.

Mr. Rayson confirmed for Mayor Truex that Councilmember Crowley had no conflict.

In a roll call vote, the vote was as follows: Mayor Truex - no; Vice-Mayor Caletka - yes; Councilmember Crowley - yes; Councilmember Luis - yes; Councilmember Starkey - no. (Motion carried 3-2)

## **7. APPOINTMENTS**

### **7.1 Mayor Truex**



- 7.1.1 Senior Citizen Advisory Committee (one exclusive appointment - term expires April 2008) (members shall be a minimum 60 years of age)

No appointment was made.

- 7.1.2 Youth Education and Safety Advisory Board (one exclusive appointment - term expires April 2008) (members shall, whenever possible, have interest and expertise in law enforcement, elementary school instruction, education matters, child psychology, pediatric medicine, parenthood and grandparenthood)

No appointment was made.

- 7.2 Councilmember Starkey

- 7.2.1 Airport Advisory Board (one exclusive appointment - terms expire December 2007)

No appointment was made.

- 7.3 Councilmember Luis

- 7.3.1 Airport Advisory Board (two exclusive appointments; terms expire December 2007)

No appointments were made.

- 7.4 Unsafe Structures Board (two non-exclusive appointments; terms expire April 2009) (members shall be permanent resident or have their principal place of business within the Town's jurisdiction) (one appointment shall be a plumbing contractor and one appointment shall be a real estate property manager)

No appointments were made.

- 7.5 Florida League of Cities Legislative Policy Councils for 2007-2008

Councilmember Starkey explained that the Florida League of Cities wanted Councilmembers to serve on one of these councils. She felt it was important for the Town to be represented.

## **8. OLD BUSINESS**

There was no old business to be discussed.

## **9. NEW BUSINESS**

There was no new business to be discussed.

## **10. MAYOR/COUNCILMEMBER'S COMMENTS COUNCILMEMBER LUIS**

**POST-STORM BULK TRASH PICKUP CONTINGENCY PLAN.** Councilmember Luis asked if the Town had a contingency plan for bulk trash pickup to be performed in advance of a hurricane. Mr. Cohen advised that there was no such contingency plan and

indicated that residents were instructed not to put bulk trash out for pickup when a hurricane was anticipated. He advised that hurricane information was on the Town web site.

**COUNCILMEMBER STARKEY**

**EMPLOYEE STORM PREPAREDNESS.** Councilmember Starkey asked if new employees had been informed what their emergency response responsibilities would be. Mr. Cohen assured her that they all had been informed.

**COUNCILMEMBER CROWLEY**

**COUNCIL CONFLICTS OF INTEREST.** Councilmember Crowley advised that if anyone believed a Councilmember had a conflict, they should write to the Commission of Ethics to request an opinion.

**VICE MAYOR CALETKA**

**RESURFACING OF BETTY BOOTH ROBERTS PARK BASKETBALL COURTS.** Vice-Mayor Caletka was assured that this resurfacing project was progressing.

**MAYOR TRUEX**

**RICK AND RITA CASE VAN.** Mayor Truex asked if this issue had been resolved. Mr. Cohen responded that staff would be submitting a resolution at the next Council meeting regarding this issue.

**I-75.** Mayor Truex advised that public meetings on I-75 would take place on September 18th. He distributed brochures regarding the hearings.

**LETTER FROM OPEN SPACE ADVISORY COMMITTEE.** Mayor Truex indicated that the Committee wanted the Town to refrain from spending any bond money on certain things until the Committee had a chance to review the proposals. Councilmember Starkey said that the Committee was developing new criteria for park improvements and wanted to wait until these were complete. Mayor Truex wanted staff to work with the committee. Councilmember Starkey stated that the letter referred to improvements for a fence at 8th Street Park and the Committee was concerned about funds being expended before the criteria was set, which they planned to do at their September meeting. Mayor Truex advised staff not to bring these items up until after the committee's September meeting and Council agreed.

**PARKWAY CHRISTIAN SCHOOL.** Mayor Truex stated that the School had requested help with a tax-exempt bond issue. Mayor Truex said that he and staff would meet with school representatives and report back to Council on this. Mr. Shimun explained that a governmental agency must sponsor a bond such as this.

**DOWNTOWN DAVIE.** Mayor Truex asked if the Town was actively trying to discourage this development. Mr. Shimun explained that an agreement with Emerald Isles was required to work on the adjacent property. Councilmember Crowley stated that Downtown Davie was elevating the existing parking lot and this would impact the rest of the site. This was why the Town Engineer had required the agreement with Emerald Isles. Councilmember Crowley thought they were working this out in court.

Acting Town Engineer Le Nguyen said when they had issued the permit to Downtown Davie, they had included the condition that permission must be sought from the adjacent property to perform work on that adjacent property. Mr. Shimun explained to Mayor Truex that Downtown Davie was not staying in the easement and they had not provided the temporary parking spaces they had promised.

**CORRESPONDENCE.** Mayor Truex asked that all Councilmembers be put on the distribution list for any letters staff sent to any Councilmember.

**11. TOWN ADMINISTRATOR'S COMMENTS**

No comments were provided.

**12. TOWN ATTORNEY'S COMMENTS**

Mr. Rayson appreciated the opportunity he had been given, and he was committed to working very hard to gain the confidence and trust of every member of the Council and serving the people of the Town.

**13. ADJOURNMENT**

There being no further business to discuss and no objections, the meeting was adjourned at 10:34 p.m.

Approved\_\_\_\_\_

\_\_\_\_\_

Mayor/Councilmember

\_\_\_\_\_  
Town Clerk